



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Request to Join in Amicus Brief in the case of Bonanno v. Central Contra Costa Transit Authority, Supreme Court

MEETING DATE: December 19, 2001

PREPARED BY: Randall A. Hays, City Attorney

RECOMMENDATION: That the City join the Amicus Brief in the case of Bonanno v. Central Contra Costa Transit Authority

BACKGROUND: Amicus Briefs are filed in various actions, which involves matters of wide-ranging concern to provide information and additional argument to the Court in order to assist the Court in understanding all of the issues and arrive at a conclusion.

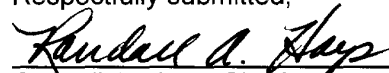
The above case has been accepted by the California Supreme Court for argument. The facts of this case are fairly simple. The Central Contra Costa Transit Authority had a bus stop located on a street in the City of Martinez. A pedestrian who was crossing the street to get to the bus stop was struck by a driver who failed to see the pedestrian in the cross walk. The pedestrian, Darlene Bonanno, filed suit against the Transit Authority claiming that the location of the bus stop induced her to cross the street, thereby creating a dangerous condition for which the Transit Authority could be held liable. At trial the jury found the Transit Authority one percent at fault for the pedestrian's injury. Due to joint and severable liability concepts, that particular one percent of fault resulted in a \$1.5 million judgment against the Transit Authority. That decision was appealed but was upheld by the Court of Appeal. The California Supreme Court has indicated now to hear the case.

The finding of liability because public property attracts or encourages somebody to do something is a totally new concept in law in the State of California. In fact, it is exactly opposite of the state of the law as it now stands in California. Using a factual situation that would be contemporary for the City of Lodi would be an argument that Lodi Lake Park, because of its very existence which induces people to come to the park represents a dangerous condition for which the City would be liable should someone be hit in a crosswalk or have a vehicle accident on their way to the park. That particular concept has raised quite a furor throughout the State. Clearly such a concept would put governmental entities at a great deal of risk for any number of activities that it undertakes which in fact caused people to be drawn to them.

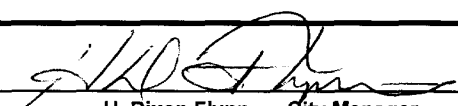
The fact that the California Supreme Court has decided to hear this case is important so that the particular concept can be argued and hopefully reversed.

Funding: Not applicable.

Respectfully submitted,


Randall A. Hays, City Attorney

APPROVED:


H. Dixon Flynn -- City Manager